

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK
NWAUZOR, FERNANDO AGUIRRE-
URBINA, individually and on behalf of all
those similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

No. 3:17-cv-05769-RJB

**PLAINTIFFS' PROPOSED
NOTICE PLAN AND ORDER**

Plaintiffs Ugochukwu Goodluck Nwauzor and Fernando Aguirre-Urbina, by and through counsel, respectfully submit the following proposed Class Notice Plan:

1. The Court granted Plaintiff's Motion for Class Certification on August 6, 2018, certifying a class of all civil immigration detainees who participated in the Voluntary Work Program at the Northwest Detention Center at any time between September 26, 2014, and the date of final judgment in this matter. The current deadline for the parties to submit a Proposed Notice and Notice Plan is January 8, 2019. Dkt. No. 134.

2. The parties have conferred and, based on that conferral, Plaintiffs propose a multifaceted Notice Plan to be administered by an experienced notice plan administrator, and to include distribution of a long form notice by mail to Class Members currently residing

1 in the United States, publication of short form notices by radio and print advertisements to
2 Class Members residing outside the United States, creation of a dedicated class website
3 accessible to people within and outside of the United States, the sophisticated use of internet
4 banner ads on various social media and web platforms within and outside of the United
5 States, and a dedicated toll-free phone number.

6 3. Plaintiffs respectfully submit that, once finalized, this proposed Notice Plan
7 will provide “the best notice practicable under the circumstances,” as required by Fed. R.
8 Civ. P. 23(c)(2)(B). Many of the Class Members reside outside the United States, with
9 incomplete or unreliable address information making notification by direct mail difficult. For
10 this reason, the proposed program provides for publication by radio, print, and internet means
11 to Class Members residing outside the United States. *See* David F. Herr, Manual Complex
12 Lit. § 21.311 (4th ed.).

13 4. Defendant does not oppose a class notice program consistent with Plaintiffs’
14 proposed Notice Plan, subject to further meet and confer discussions with Plaintiffs to
15 finalize additional specific details of the Notice Plan and further Court approval as provided
16 within Paragraph 5 below. Defendant further reserves all of its objections to the certification
17 of a class in this case and also reserves any objections it may have in the event that the actual
18 notice as disseminated does not satisfy the requirements of Fed. R. Civ. P. 23(c)(2)(B).
19 Defendant further states that it has been working in good faith to provide class list
20 information as requested by Plaintiffs, including information in the possession, custody and
21 control of Defendant and other information that must be requested from, or for which
22 approval to produce must be obtained from, the government, including Immigration and
23 Customs Enforcement (“ICE”). Defendant further states that the class list information is also
24

1 confidential, and, as such the production of class list information is also subject to the entry
 2 of a protective order by the Court that permits the release of and protects class list information
 3 in accordance with applicable law and regulation. The recent government shutdown,
 4 however, has impacted the relevant government agencies, including ICE, and, as such, has
 5 impacted Defendant's ability to obtain class list information and/or other necessary approvals
 6 regarding the class list and protective order from the government and/or ICE, including
 7 because some of the relevant government personnel have been furloughed.

8 5. In light of all of the above, Plaintiffs propose the following as their Class
 9 Notice Plan:

10 a. **Notice Administrator:** The parties shall agree as to the identity of the
 11 Notice Administrator, subject to Court approval.

12 b. **Class Notice Documents.** Class Notice Documents shall be modeled after
 13 and consistent with "The Federal Judicial Center's Illustrative Forms of Class Action
 14 Notices." *See* Illustrative Forms of Class Action Notices: Overview, available at
 15 <https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction>
 16 (last visited Jan. 8, 2019). The Class Notice Documents will be in English and will be
 17 translated into Spanish and other languages corresponding to the countries in which a
 18 significant portion of the Class Members reside. The parties shall further meet and confer
 19 regarding such translations. Plaintiffs have provided Defendant with drafts of the proposed
 20 Long Form, Short Form (print and radio) notices (collectively "Class Notice Documents").¹

21 _____
 22 ¹ Plaintiffs have not yet provided Defendant with their copies of the proposed banner and display ads as
 23 contemplated by Paragraph 5(c)(iii) for review and comment. Defendant shall have ten (10) days from the entry
 24 of this Order or ten (10) days from the receipt of such drafts from Plaintiffs, whichever is later, to provide
 Plaintiffs with any comments and/or revisions to such documents. If the parties cannot reach agreement as to
 the form or content of the banner ads, the parties shall submit their respective banner and display ads to the
 Court for its determination.

1 Within ten (10) days from the entry of this Order, Defendant shall provide Plaintiffs with
2 any comments and/or revisions on these Class Notice Documents. The parties shall then
3 submit the agreed Class Notice Documents to the Court for its approval, provided, however
4 that if within twenty (20) days from the entry of this Order, the parties cannot agree on the
5 form or content of these Class Notice Documents, the parties shall submit their respective
6 Class Notice Documents to the Court for its determination.

7 c. **Class Notification Process.**

- 8 i. *Class List:* As noted above, certain of the information that Plaintiffs are
9 seeking for class notice purposes must be requested from, or is
10 information for which approval to produce must be obtained from, the
11 government, including ICE. Class list information is also confidential,
12 and as such, its production is subject to the entry of a protective order. It
13 is Defendant's position that approval from the government, including
14 ICE, as to its content, must be obtained before a protective order is
15 submitted to the Court, and, therefore, Defendant has represented it
16 cannot produce class list information without government approval of
17 the protective order. In light of the government shutdown, however, it is
18 unknown when such information and/or approval can be obtained. In
19 light of this, the parties agree to the following schedule for the
20 production of class list information: Defendant shall produce such
21 information within seven (7) days of Defendant's receipt of approval to
22 produce and/or class list information (as applicable) from the
23 appropriate government authorities, or within seven (7) days of the
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1 entry of a protective order in this action, whichever is later. If approval
2 from the appropriate government authorities to produce class list
3 information does not follow within 30 days of the Court's approval of
4 Plaintiffs' Notice Plan, the parties shall meet and confer regarding the
5 timing of obtaining class list information and provide a status update to
6 the Court.

7 ii. *Mailing Class Notice.* Within fifteen (15) days from the date of the
8 Court's approval of the Notice Documents in accordance with Paragraph
9 5(b), or within fifteen days of the provision of the Class List information
10 in accordance with the schedule set forth pursuant to Paragraph 5(c)(i),
11 whichever is later, the Notice Administrator shall mail the Long Form
12 Class Notice by first class mail to all Class Members who reside in the
13 United States and for whom names and addresses can be compiled. In the
14 event any Class Notice is returned as undeliverable, the Notice
15 Administrator shall use best efforts to obtain corrected addresses, and
16 shall promptly re-mail the Class Notice(s) to the corrected address(es).

17 iii. *Publication.* The Notice Administrator will use various means of
18 publication to further disseminate notice, including some or all of the
19 following: print advertisements in selected newspapers, radio
20 advertisements on selected radio stations, and targeted internet-based
21 notification featuring programmatic digital banner advertising
22 campaigns and in-feed display ads on social media platforms such as
23 Google Display Network (GDN), Facebook Audience Exchange Ad
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1 Network, Facebook, Instagram, and Twitter. The parties recognize,
2 however, that the final specifics of the publication program depends, in
3 part, on the make-up of the class as set forth in the class list.

4 Accordingly, the parties shall further meet and confer on the final
5 specifics of the publication program, and, if the parties cannot reach
6 agreement as to the specifics the parties shall submit any such disputes
7 to the Court for its determination.

8 iv. *Dedicated Website:* The Notice Administrator shall maintain a
9 dedicated website to provide class members with information regarding
10 the notice. The website will feature a toll-free phone number with live
11 call center support in appropriate languages that Class Members may call
12 for additional information about the lawsuit.

13 c. *Opt-Out Deadline.* Any person sent a Class Notice who wishes to opt out of
14 the class action must do so by following the instructions for requesting exclusion from the
15 class as set forth in the Class Notice. All requests for exclusion must be mailed, emailed, or
16 otherwise transmitted to the Notice Administrator no later than 60 days after the notice
17 campaign begins or the requests for exclusion shall be deemed void and ineffective.

18 d. *Report on Opt-Outs.* The Notice Administrator shall notify the parties
19 Defendant of any opt-out within fourteen (14) days of receipt of a Request for Exclusion
20 form. Within fifteen (15) days of the opt-out deadline calculated from the date of the initial
21 mailing of the Notice, Class Counsel shall file a report with the Court regarding opt-outs.

22 DATED this 8th day of January, 2019.
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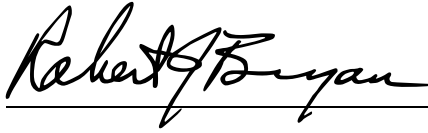
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Class Counsel

ORDER

Pursuant to the foregoing proposal, IT IS SO ORDERED.

DATED this 9th day of January, 2019.



ROBERT J. BRYAN
United States District Judge

PRESENTED BY:

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